

AMENDED IN SENATE JUNE 20, 2005

AMENDED IN SENATE JUNE 6, 2005

AMENDED IN SENATE MAY 24, 2005

AMENDED IN ASSEMBLY APRIL 28, 2005

AMENDED IN ASSEMBLY APRIL 20, 2005

AMENDED IN ASSEMBLY MARCH 17, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 293

Introduced by Assembly Member Maze

February 9, 2005

An act to amend Section 7197 of, and to add ~~Section~~ *Sections 7196.2 and 7197.5* to, the Business and Professions Code, relating to home inspections.

LEGISLATIVE COUNSEL'S DIGEST

AB 293, as amended, Maze. Home inspections.

Existing law regulates persons who perform home inspections for a fee in connection with a property transfer, as defined. Existing law defines terms related to home inspections, establishes a standard of care for home inspectors, and prohibits certain inspections in which an inspector or the inspector's employer has a financial interest.

This bill would specify that a home inspector shall be subject to requirements regarding offering an opinion or recommendation concerning the need for structural pest control work.

The bill would provide that a home inspector may name a seller, real estate broker, or a real estate salesperson as an additional insured in a liability insurance policy.

~~This~~~~The~~ bill would require a home inspection company, as defined, inspector to provide a specified written disclosure to the party on whose behalf the inspection is being performed.

~~This~~~~The~~ bill would make it an unfair business practice for a home inspector or a company that employs home inspectors to fail to make those disclosures or to disclose personal identifying information of a person involved in an inspection.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7196.2 is added to the Business and
2 Professions Code, to read:

3 7196.2. A person representing himself or herself as a home
4 inspector shall be subject to the requirements of subdivision (d)
5 of Section 8550.

6 ~~SECTION 1.—~~

7 SEC. 2. Section 7197 of the Business and Professions Code is
8 amended to read:

9 7197. (a) It is an unfair business practice for a home
10 inspector, a company that employs the inspector, or a company
11 that is controlled by a company that also has a financial interest
12 in a company employing a home inspector, to do any of the
13 following:

14 (1) To perform or offer to perform, for an additional fee, any
15 repairs to a structure on which the inspector, or the inspector's
16 company, has prepared a home inspection report in the past 12
17 months.

18 (2) Inspect for a fee any property in which the inspector, or the
19 inspector's company, has any financial interest or any interest in
20 the transfer of the property.

21 (3) To offer or deliver any compensation, inducement, or
22 reward to the owner of the inspected property, the broker, or
23 agent, for the referral of any business to the inspector or the
24 inspection company.

25 (4) Accept an engagement to make an inspection or to prepare
26 a report in which the employment itself or the fee payable for the
27 inspection is contingent upon the conclusions in the report,
28 preestablished findings, or the close of escrow.

(5) A home protection company that is affiliated with or that retains the home inspector does not violate this section if it performs repairs pursuant to claims made under the home protection contract.

(6) To fail to disclose or misrepresent any item required to be disclosed in Section 7197.5.

(7) To disclose personal identifying information, including, but not limited to, the name, address, telephone number, state or federal driver's license number, social security number, or taxpayer identification number, of a buyer, seller, tenant, or others involved in the inspection without the approval of the individual or individuals involved.

(b) This section shall not affect the ability of a structural pest control operator to perform repairs pursuant to Section 8505 as a result of a structural pest control inspection.

(c) Nothing in this section shall prevent a home inspector from naming a seller, a real estate broker, or a real estate salesperson as an additional insured in a liability insurance policy maintained by the home inspector.

~~SEC. 2.—~~

SEC. 3. Section 7197.5 is added to the Business and Professions Code, to read:

7197.5. ~~(a)~~ As soon as it is commercially feasible and prior to commencing a home inspection, a ~~home inspection company~~ *inspector* shall provide a written disclosure to the party, or the party's agent, on whose behalf the home inspection is being performed that includes all of the following:

~~(1)~~

~~(a)~~ Whether the ~~company~~ *home inspector or the company that employs the home inspector* maintains professional liability insurance.

~~(2)~~

~~(b)~~ Whether the ~~company~~ *home inspector or the company that employs the home inspector* maintains general business liability insurance.

~~(3)~~ The number of years of service the company has been providing home inspections.

~~(4)~~ The approximate number of home inspections completed by the company.

1 ~~(5) The minimum number of hours of education and training~~
2 ~~the company's home inspectors receive before they are permitted~~
3 ~~to conduct home inspections and a statement that, upon the~~
4 ~~request of the party or party's agent, the company will provide a~~

5 ~~(c) A statement that includes the approximate number of home~~
6 ~~inspections the home inspector has performed for a fee, the~~
7 ~~number of years of his or her experience as a home inspector, and~~
8 ~~his or her education related to home inspection, specifically~~
9 ~~including the number of educational hours completed and the~~
10 ~~educational facility or facilities he or she attended.~~

11 ~~(6)~~
12 ~~(d) Whether the company or any of its employees belong~~ *home*
13 ~~inspector belongs to any professional or nonprofit trade~~
14 ~~associations.~~

15 ~~(7) Whether the company or any of its employees possess any~~
16 ~~applicable state licenses.~~

17 ~~(e) Whether the home inspector possesses any applicable state~~
18 ~~license related to the home building industry.~~

19 ~~(8)~~
20 ~~(f) A statement that home inspectors are not required to be~~
21 ~~licensed, registered, or certified pursuant to state law.~~

22 ~~(b) For the purposes of this section, a "home inspection~~
23 ~~company" is an individual home inspector or a company that~~
24 ~~employs a home inspector.~~

25 ~~(e) The written disclosure, as specified in subdivision (a), by a~~
26 ~~home inspection franchise business, shall only include~~
27 ~~information pertaining to work done by home inspectors working~~
28 ~~at that individual franchise and shall not contain information~~
29 ~~relating to work done by home inspectors at other franchise~~
30 ~~locations.~~